SALUS POPULI SUPREMA LEX.

OR,

The Free THOUGHTS of a Well-Wisher,

For a good SETTLEMENT,

IN A

LETTER

TO A

FRIEND.

By James Stewart

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SALUS POPULI SUPREMA LEX.

OR,

The Free Thoughts of a Well-wisher, for a good Settlement, &c.

Sir,

THe settling of our Government, in this extraordinary meeting of the Estates, is a matter of that importance; that I cannot but wish I were as able to assist in it, as I am perswaded it is the duty of every man to contribute his best endeavours: And seing it is like to be the grand Question, *Whether we should call back the present King, or, at least, in his absence resolve on such a Regency, as may consist with the continuance of his Right; or rather plainly declare the Thron to be vacant, and supply it after Englands Example.* You shall have my Opinion as free from passion, as from particular intrest, which I think is as little as any mans can be.

I therefore humbly Conceive, that the Estates may, and ought, to declare the Thron to be vacant, and at the same time supply it, by setting up the Prince and Princess of *Orange*, after the example of *England* without variation.

And my reason is one, and most evident, and demonstrative, *viz.* Because the Thron is *de facto vacant*, as being deserted, and that God from Heaven, presents to us, and the Highest Necessity determines us, to embrace their Highnesses as the only Persons that can, and ought possess it. I know it was the method of *England*, first to take notice of the King's malversations, and thereupon, and upon his deserting, to find that he had *Abdicat*, and thereby rendered the Thron Vacant: But, tho' all good Men must perpetually regrate, the King's Fatal Addiction to the *Romish* Religion, and the Excesses it hath caused him to commit, and that now undoubtedly is the season to provide against these, and all other Errors in the Government. Yet seing that some may be ready to affirm, that by our late Laws we have too amply impowered, & by our complyance, too manifestly encouraged him in these very courses, to make these his Majesties charge: and that it is more becoming the Respect due to *Soveraign Majesty* in all events, and likewayes more easie to our old and National kindness to the ancient Race, and Line; to forbear such direct and extraordinary accusations. (leaving these to others) I rather choose, and fix upon the *medium* of the Kings deserting as that, which in our case is yet more palpable and clear then in that of *England*, and abundantly conclusive of all I would inferr from it.

And that the King hath *deserted* the Thron, and us, is so apparent from that visible State of *Anarchy*, under which we have Labcured these months by past: That certainly all Considering men, in place of making it a matter of doubt, do rather Admire, and Praise the good Providence of the Almighty, who hath so graciously kept our peace, and prevented these ruining Mischiefs, to which such a Lawless condition, Joyned to our former intestine

Distempers, and Divisions. did expose us. Our Kings it's true have of a long time resided in *England*, Personally absent from us, and some may say, that his going to any other of his Dominions ought not to alter the case: But the *Desertion* we speak of, being not a simple non-residence, and personal absence, but a manifest abandoning, leaving us far more negligently, then he did *England*, without all Cause, Care, or Concernment; cannot be covered with this Pretence. If upon that great, and sudden pressure in *England*, that moved him to take such surprising measures; it had pleased his Majesty, to give any account of them, with what orders he might have thought necessary, to his Privy-Council in this Kingdom; something might be alledged to colour the *Derelict*ion: But when nothing of this Nature was done, but the Government quite given up, in our greatest exigence, to the Conviction and Amazement of his own Privy Council, and all his Officers; who only encreased the common consternation, by following their Master's example, the thing is but too certain. And therefore I shall only sum up its evidence with these two remarks. First, that the King's leaving us, as he did, in his, and our then circumstances, is so unaccountable in all other reasonings; that it seems plainly to say, that it was his Majestie's good mind toward us, that we should follow *England's* fate, whatever it should prove. And next, that there appears so much of the Divine Soveraignty, over-ruling the King in the course he took in his departure; that it cannot but intimat to all Serious Observers, that thereby God thought good, to prepare the way for the happy choice, that he now presents.

If then the King hath deserted the Kingdom, and its Government, the Thron is necessarly vacant: And if the Thron be vacant, nothing can hinder to Declare it to be so, unless Men do prefer Confusion, and Ruin to order and Safety.

But because the Oaths of *Allegiance, and Test*, with other Engagements, seem to many, to be still binding; I shall resume the matter more particularly, in order to their Liberation and Relief. And therefore must, and do affirm from the most obvious evidence of things, that the *Desertion* we ly under is not only total, and absolute; but withall so causeless or rather pretenceless, beyond the case of *England*, without the least shaddow of constraint, or reason; that a more notable and clear breach of the *Fundamental Contract*, whereon all Government, as well as ours, Subsists, can hardly be imagined. I cannot here digress, to prove the Being, and Nature, of this fundamental contract: All Men of Sense, do easily apprehend, that Government is a matter of *Trust*, and not of *property* or *absolute Dominion*; and that, tho' the ordinance in it self, as also that of Marriage, be of God, yet the establishing of it in this or that form, and upon this or that Person, and Familie, is, after the parallel of the same Example, of mans free choice and agreement: It being Impossible to Imagine, how either the *Hostility* of conquest should terminat, or the vain old World pretence of *Paternal power*, the presumptive force of *Prescription*, or the true and genuine vertue of a Surrender, take place to introduce Government, without the supposition of this *mutual Consent*, and *Contract*, either imply ed, or expressed. And thus indeed, it is, and no other wayes, that the *Powers* which in the first Sense, and in the *Abstract* are by the Apostle *Paul* truely said, *to be of God*; are yet in the second Sence, and *in the Concret*, Justly called, by the Apostle *Peter*, *the Ordinances of Man*. We have too long been inured, by Men of Corrupt Designs, and practices, to a certain false Cant, *that the King holds his Crown immedialy from God Almighty alone*. But now, Blessed be God, all Men not wilfully blind, do see, and the very Authors of this Language, begin to confess, that it is otherways; and that Government is founded in *Consent*, and truely and only best bound by this *Fundamental Contract*. Whereof the *Essentials viz.* That a King should rule, and Protect, and the People Obey, and Submit, in Righteousness, for the Glory of God, and the good of the Common-wealth, need no *Record*, more then the Necessary duties of Man and Wife in the Contract of Marriage, as being in both cases inseperable from the very Being of the Ordinances. And for the *Naturals* and *Accidentals*, as Lawyers speak, of this Contract of Government, they may be seen, and read, in the perpetual consuetude, and other Laws of the Kingdom; and are all confirmed

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by the mutual Stipulations, Promiſes, and Oaths cuſtomary, ſpecially at Coronations, betwixt King and People.

Our King then, as all others, being King by Contract, acknowledged by his accepting of the Government, and requiring of us the *Oaths* of *Allegiance*, and other engagements; which expreſs our part of the contract, and no leſs neceſſarly ſuppoſe his: It is evident as the meridian light, that if he either *Renounce, Abdicate, or totaly Deſert*, he wholly breaks his part, diſſolves the Contract, and looſes us, from our part, and all the promiſes, Oaths, and Teſts by which we can be thereto bound. The compact of Marriage is certainly the moſt Divine, and binding, known amongſt men; and here God is ſaid to joine, and in ſuch a manner, that neither of the Parties tho moſt free Contracters, and both conſenting, may ſeparate without his warrand: Yet if one of the Parties, ſpecially the *unbelieving*, depart the Apoſtle pronounces diſtinctly from the Nature of the Contract, and Gods mind in its inſtitution, *let him depart the other partie is not in Bondage in ſuch a caſe*, either to his conjugal promiſe, or to any other Supervenient Oath, that may have interveened; But is as free from the *Law* of the Departer, or Deſerter, as if he were naturally Dead: If then it be ſo in the buſineſs of Marriage, can any Man heſitat, but it muſt be much more ſo in the caſe of Government; the tye whereof, in the acknowlegment of all, falls many degrees ſhort of the formers obligation: But ſo it is that the King hath deſerted cauſeleſly, totally, and abſolutely, as hath been declared, and therefore in all Law, Reaſon, and Revelation, the Thron is vacant, and we are looſed from his *Law*, and all other ſuppoſable *engagements*.

But you may ſay, in the Apoſtles words, to the ſame purpoſe, *But God hath called us to peace*, and therefore we ought neither to be haſty, nor peremptory, but ſeing we know his Majeſties departure was not his free choice, and that after this little *Seceſſion* rather then *Deſertion*, he purpoſes to return, as he hath ſignified by his letters, we ought to wait for him; and not ſo lightly throw off our Allegiance, to which we are by Nature, and Religion, ſo ſtrictly bound. I anſwer, that what ever was the manner of the Kings departure from *England*, yet, as to us, it was a free choice, which hapening in ſuch a juncture, and expoſing us ſo dangerouſly to all the miſeries of a Diſſolution, is really Irreparable: ſpecially ſeing that by the ſame default of his, *res non eſt integra*. But the Kingdom being obliged by the moſt binding Law, to wit, *Salus Populi Suprema Lex eſto*, and the moſt cogent neceſſity of *ſelf-preſervation*, to fly and betake it ſelf to his Highneſs *Heavens-ſent* Protection; it is impoſſible for us to retreat from it, without a moſt ungrate perfidie toward the Prince, and Damnable folly toward our ſelves, in rendring the whole Kingdom obnoxious to a greater *Forfeiture*, than can be ſecured againſt, by any offered Pardon and Indemnity, in our preſent circumſtances. Admitting then, that his Majeſtie purpoſes to return; yet I ſay he muſt excuſe us, ſince his offer is too late. But more eſpecially becauſe, as all good Men hear, and underſtand with regrate, he makes the offer by his Letters, in ſuch a manner, as promiſes nothing, ſave a threatning *Invaſion* of perfidious and cruel *French* and *Iriſh Papiſts*, to deſtroy our Religion, and make *Britain* a field of Blood, and an utter Deſolation. Wherefore I muſt conclude, by way of Retortion, that ſeing both God, and the King, have *loos'd* us from our Allegiance, by his Majeſties *Deſertion*, as hath been proved; and God, as you ſay, doth alſo call us unto peace: we ſhould undoubtedly ſhew our ſelves, the moſt nottorious contemners of this ſweet and Heavenly call, if after ſo great a deliverance, we ſhould again bring back the King, with ſuch a *ſevenfold worſe attendance* and thereby unavoidably render our *Laſt Eſtate* infinitly worſe then our *Firſt*.

But you may ſtill urge, why ſo peremptory, and ſevere, you reſiſted, and oppoſed King CHARLES the firſt, with Arms, and yet, even in the hotteſt of the Warr, when you entered into a League and Covenant for its more effectual proſecution, you reſerved his Majeſties Soveraignity, and juſt Rights. Why then ſhould the Kings ſimple departure, be now accounted worſe, to inferr a Diſſolution, and juſtify a Rejection, than what was reckoned in his Fa-

ther to be a Hoſtile *Invaſion*. It's anſwered, not to touch upon any invidious compariſon of theſe Perſons, nor yet upon his Majeſties woful defection from the true Proteſtant Religion, whereby he hath too viſibly brought on himſelf, the curſe that his Grand-father did, in this caſe leave, and entail on his poſterity, I ſay, the Kings *Deſertion* doth inferr a Diſſolution, and warrand a Rejection, albeit his Fathers ſuppoſed *Invaſion* was not carried that length; Becauſe our warrs with the Father were but an incident unhappy quarrel, amongſt our ſelves, as well as with our King; wherein, as it could not be ſaid, that he had Deſerted the Kingdom, or yet hoſtilly invaded it, by a Foraigne Force; ſo we had all reaſon to reſerve his Soveraignity and juſt Rights, in the probable proſpect, of a good Compoſure, and Peace. Whereas our preſent Kings *Deſertion* is not only Cauſeleſs, Total, and Abſolute, leaving the Thron vacant, to the evidence of every Mans ſenſe; beyond all controll, or excuſe of reaſon, in the ſame manner as if he had been removed by Death, but in the juſt conſtruction of Law, it imports ſuch a *voluntary Dereliction*, as frees us from our former Allegiance, and layes on us an Indiſpenſible Obligation of providing for a *new Eſtabliſhment*. *Si Rex enim Imperium abdicavit, aut manifeſte habet pro Derelicto*, ſays Grotius, *in eum poſt id tempus, omnia licent quæ in Privatum.*

Having thus cleared the Nature and Import of the Kings *Deſertion*, and that the Thron being *de Facto Derelinquiſhed*, we are in the ſame manner looſed from the Law, and Oaths of our Allegiance, as if he were Naturally dead, and his Race extinguiſhed; ſpecially when we cannot now think of his Return, had his Reign been ten times more juſtifieable, without the Horrour of all the fatal conſequences of Blood, *Confuſion* and *Deſolation*; it is evident that for the Eſtates to declare the thing as it is, and to proceed to a new and neceſſary ſettlement, is not attended with the leaſt difficulty.

And therefore I go on to the ſecond point *viz*. That in this ſtate of things, the Eſtates of the Kingdom ought to ſupply the vacancy of the Thron, by ſetting up their Highneſſes the Prince and Princeſs of *Orange*, after *England's* example without variation. And the Reaſon I gave for it, was becauſe, that God from Heaven preſents them to us, and the higheſt neceſſity determines us to acquieſce in his good pleaſure. And that God preſents them, if there be any voice or language, in his providences, as certainly there is, it amounts in our caſe to a manifeſt Declaration. When after King *Solomons* death, the Lord ſo ordered the matter in the Treaty betwixt *Rehoboam*, and the People, that by his imprudent Anſwer, he provock'd the ten Tribes to Reject him; the Lord, by a Prophet, commands *Judah* to ſit ſtill, and deſiſt from fighting, for, ſays he, *the thing is from me*. Can any Man then doubt, that in the concurrence of the many ſignal providences (more remarkable both for Number, and Weight, then can be inſtanced from all our Hiſtories) which at preſent ſurround us to ſhew us the way, the Perſons, whom God thus deſigns, ought to be Choſen and Embraced.

It was an *Inſpiration* from God, that moved his Highneſs, and all the Proteſtant Princes in *Germany* to reſent ſo cordially the *Diſtreſs* of the Proteſtant intereſt abroad, and it's *Danger* here with us. It was alſo another effect of the ſame *Divine Influence*; that excited his Highneſs *raiſing up the Righteous Man from the Eaſt*, and prevailed upon the Cautious and Warry Eſtates of the united Provinces, to ſet about ſo great, and incredible an *undertaking*, wherein a Man may juſtly doubt, whether the vaſtneſs of the *expence*, the *hazard* of the Seas, ſeaſon, and tempeſts, or the *Preparations* and *Forces* of the Adverſary, were more diſcouraging. But that God, ſhould have ſo happily conducted thorow all theſe difficulties; turned, almoſt as one Man, the Hearts of all the People of *Britain*; and cauſed all the feared oppoſition to melt away, as Snow before the Sun, ſo that his Highneſs was without Battel, brought to *London* only with *Joy & Triumph. This, This is the Lord's doing and it is marvellous in our eyes!* Nor are the ſucceeding paſſages of his work, tho' not of ſo great a *Luſtre*, of leſs *ſignificancy* and moment, as to our preſent purpoſe: That his Majeſty left *England* once and again ſo obſtinatly; neglected and forgot *Scotland* totally; made the *French* King, that Enemy of God, and Man, his only refuge, and ſet up all his remaining hopes on *Tyrconnel* and his *Iriſh Papiſts*; that the

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meeting of the Eſtates in *England*, did ſo readily and unanimouſly ſettle the Soveraignity upon their Highneſses. And laſtly that our Country-men, going to *London*, with ſuch different Intereſts, and Deſigns, ſhould yet have carried along with them, ſo much of the Spirit and Senſe of the Nation, as to agree, almoſt as one Man, to addreſs to his Highneſs, to take on him the Government and call the preſent Convention: All theſe, I ſay, laid together and recommending none other to us, then the very next in blood to the King that hath forſaken us, muſt, after the vacancy of the Thron above demonſtrate, appear to every one, that regards the work of the Lord, and conſiders the operation of his Hands, to be nothing leſs then ſo many *Lines* from Gods Soveraign Power, and Wiſdom, concentring to point out their Highneſses as the only Perſons that ought and can poſſeſs it.

I Grant for all that hath been ſaid, that providences of whatſoever kind and number are no Rule of Duty; nor do I here pretend to adduce them as ſuch; but it being already cleared, that thorow the Kings *Defertion*, the Thron is vacant, the Government diſſolved, and the Kingdom brought under the neceſſity of a new Eſtabliſhment; I can hardly believe that any will be found ſo Refractory, as not to acknowledge, that ſuch leading and perſwaſive *Providences*, are the beſt *Deſignations* of the Perſons on whom we ought to fix.

Yet, leſt ſuch there may be, I ſhall farther conſider the laſt part of the Argument, and that is, That even the higheſt neceſſity determines us to follow *England's* Example in this Affair, without variation. And this, I think may eaſily be Illuſtrat, as well from the Inconveniences, and Miſchiefs on the one hand, if we divide: as from the Advantages on the other, if we joine intirely with them. And for the Inconveniences, the long and bloody Troubles, and Calamities, that this Kingdom ſuffered in its divided Eſtate from *England*, are yet too freſh in mens Remembrance, to ſuffer any to deſire a relapſe into it, unleſs it may be in this only proſpect, that, according to the great change happened in our Circumſtance, ſome may thereby now hope, for a ſpeedy Conqueſt, as in any terms more deſireable, than our beſt ſeparat condition. The Conjunction of the two Kingdoms, under King JAMES the ſixth, was a Bleſſing ſo long lookt for, and acceptable, that when he applyed to it, that ſaying, *Quos Deus conjunxit nemo ſeparet*, he but ſpoke the true ſenſe, and wiſh of both Nations: ſhall we then, when things are ſo much altered to the worſe, be ſo unhappy as to aim at this unluckie ſeparation? ſpecially when it is moſt certain and viſible, that the leaſt apparent difference, betwixt *England* and us, at this time, would be a great encouragement to Enemies & diſcouragment to Friends, particularly our diſtreſſed Brethren in *Ireland:* And that if we do not directly call back the King (whereof I am ſure the inevitable Evils above repreſented do raiſe in every honeſt man an extreme horror) We can take no other courſe diſtinct from that of *England*, without laying our ſelves open to all their dangers, with very ſmall aſſurance of their aſſiſtance. I know the boiling of our *Scots* blood, upon a little ſtirring of the old Emulation, induſtriouſly practiſed by Papiſts, and ſuch as affect them, may readily throw up, What? are not we a free Kingdom, and much more ancient than that of *England*? Why ſhould we then be tyed to their Meaſures? ſpecially to reject totally our King, Who, as to us, in reſpect of the Engliſh, is, as it were, of our Blood and Kindred. But firſt, after the recalling of the King, which is indeed the Point that all the Promoters of this humour aim at, there is no mids betwixt it, and an abſolute rejection, that is not attended with moſt deterring Circumſtances, as hath been already declared. Next, what doth all this vain talk ſignify? doth it add any thing to our ſtrength, for preventing, or reſiſting, the abovementioned Inconveniences, which is the point that all Sober men ought moſtly to heed; or is it not rather juſt like unto the *Thiſtles* Elevation, in King *Joaſh* his Parable, which after it had compared it ſelf to the Cedar, was trode down by a wild Beaſt that paſſed by, which infallibly would be our fate, in attending to ſuch empty Counſels.

Whereas on the other hand, if we go along, and hold with *England* in this Re-eſtabliſhment

bliſhment, we have God to be our Guide and Leader, as hath been ſhewed; and in the next place we may be aſſured, that as we are already threatned by the ſame hazard, and alſo rather more expoſed to them, then they, ſo the holding the ſame courſe with them will always procure us ready, and effectual aſſiſtance; greatly animat all our Well-wiſhers, ſpecially our Brethren in *Ireland*, and prove a happy Introduction to the long deſired Union of both Kingdoms, which laſt motive of a good and perpetual Union, is of it ſelf ſufficient, to all Conſidering men, to preponderat all can be ſaid on this head: it being indeed the only thing wanting to compleat the happineſs, and ſecurity of both Kingdoms; and that which ſeems reſerved to the Prince of ORANGE, as *the man of God's right hand*, able to ſurmount, and adjuſt all the difficulties of ſo great a Work, and worthy to bear its Glory.

Thus you have my opinion, and the Lord give all Concerned a true, and right underſtanding. If bare *Infidelity* or *Difference* in *Religion* were here adduced as cauſes, to make void the King's Title and Authority; the *Weſtminſter* confeſſion (tho' well enough cautioned, by the qualities of *Juſt* and *Legal* to exempt us from the late impoſings) might yet occaſion ſome to ſcruple: or if Malverſation were the only ground, theſe might, as I have ſaid, make the enquiry more uneaſie, and the concluſion *leſs unqueſtionable*. But when the King himſelf hath *loos'd us*, by ſuch a manifeſt, and irreparable *Deſertion*: And God from Heaven points out to us ſo Deſireable and Excellent a choice. And Laſtly when the moſt powerful neceſſity of the Preſervation of all that can be dear to us, oblidges us to imbrace it: What can poſſibly demurr true Proteſtants, and rational Men, to agree to it. Neither ought we to be alarmed at the Backwardneſs, and Refractorineſs of ſome whoſe ill conſciences of their former oppreſſions and violences, may deſperatly drive them to a more avowed oppoſition. Since beſide that it muſt be in it ſelf contemptible, nothing can more effectually defeat it, and all our other vain fears, then our *Reſolute* and *Unanimous* concluding and adhereing to ſuch a Juſt, Neceſſary, and Happy Re-eſtabliſhment, *Adieu*.

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